



Linda S. Adams
Secretary for
Environmental Protection

Air Resources Board

Robert F. Sawyer, Ph.D., Chair
1001 I Street • P.O. Box 2815
Sacramento, California 95812 • www.arb.ca.gov



Arnold Schwarzenegger
Governor

January 5, 2007

Dear Sir or Madam:

The staff of the California Air Resources Board (ARB or Board) invites you to participate in a public workshop to discuss proposed amendments to the Statewide Portable Equipment Registration Program (Statewide PERP) Regulation and the Airborne Toxic Control Measure (Portable Engine ATCM) for Diesel Fueled Portable Engines. The public workshop will be held at the time and location below:

DATE: Friday, January 19, 2007

TIME: 1:30 p.m. – 4:00 p.m.

LOCATION: California Environmental Protection Agency
Coastal Hearing Room
1001 I Street
Sacramento, CA 95812

The Health and Safety Code authorizes ARB to adopt regulations for the control of toxic air contaminants. In August of 1998, ARB declared diesel particulate matter to be a toxic air contaminant. The Board adopted the Portable Diesel Engine Airborne Toxic Control Measure in February 2004. The Portable Engine ATCM is part of ARB's Diesel Risk Reduction Program designed to reduce diesel particulate matter.

ARB is authorized by California Health and Safety Code sections 41750 through 41755 to adopt a regulation to establish a uniform statewide program for the registration and regulation of portable engines and portable engine-driven equipment units. The regulation establishes a voluntary program to register portable equipment in California in lieu of obtaining permits from air districts. Portable engines include a wide variety of engine types and uses. A portable engine may provide primary power to a piece of equipment or it may serve as an auxiliary engine.

BACKGROUND

At its September 2006 meeting, the Board received comments from regulated parties that raised concerns regarding the requirements of the Statewide PERP Regulation and the Portable Engine ATCM. The main issue was that there were many older engines being operated that were not permitted or registered, and were not able to obtain a permit or registration because the requirements of the Statewide PERP Regulation and

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the Portable Engine ATCM only allowed the new registration of engines after January 1, 2006 that met the current nonroad emission standard in effect.

ARB staff, in consultation with affected industry and the local air districts, developed emergency amendments to the Statewide Portable Equipment Registration Program (Statewide PERP) Regulation and the Airborne Toxic Control Measure for Diesel-Fueled Portable Engines (Portable Engine ATCM). These emergency amendments were adopted by the Board at its December 7, 2006 hearing. They were approved by the Office of Administrative Law (OAL) on December 27, 2006, and became effective on the same day they were filed with Secretary of State. They will be effective for a period not to exceed 120 days.

Staff will present to the Board in March 2007 proposed amendments to the Statewide PERP Regulation and the Portable Engine ATCM. These proposed amendments would make permanent the emergency regulatory changes adopted by the Board on December 7, 2006. ARB staff is also proposing some minor revisions that are intended to provide additional clarity and expediency to the Statewide PERP Regulation.

The emergency amendments also made changes to ARB's Stationary Diesel Engine Airborne Toxic Control Measure (Stationary ATCM). ARB is currently engaged in a fully-noticed rulemaking comprising of amendments to the Stationary ATCM. Staff is proposing that the emergency amendments be incorporated into the pending Stationary ATCM amendments, following issuance of a 15-day notice requesting supplemental comment on that action. The proposed amendments covered by this workshop notice accordingly do not include amendments to the stationary ATCM.

DESCRIPTION OF THE PROPOSED REGULATORY ACTION

The following amendments are proposed in order to allow certain engines to register that would not otherwise qualify. They would also provide regulatory relief for affected industry relative to the availability, sale, purchase and registration of complying engines.

Resident Engines

ARB staff proposes a redefinition of what constitutes a resident engine in the Statewide PERP Regulation to include those Tier 1 and 2 engines that had been operating in California between March 1, 2004 and October 1, 2006. This revised definition will prevent the importation from out of State of Tier 1 or 2 engines, which would negatively affect California's ambient air quality. The Portable Engine ATCM will also incorporate the residency time period requirement to allow only engines in California during that window to be permitted or registered by the local air districts.

Tier 1 and Tier 2 Engines

The proposed amendments would allow the registration in PERP of “resident” Tier 1 and Tier 2 engines that do not meet the current nonroad emission standard in effect. The Portable Engine ATCM will also allow these engines to be permitted by the local air districts. After January 1, 2010, only the cleanest tier available will be allowed to register or seek local air district permitting, as is required by the existing Portable Engine ATCM.

Recordkeeping and Reporting

ARB staff proposes the removal of the hour meter requirement for rental equipment units. These rental equipment units are already required to track daily throughput, which is adequate for determining compliance with daily emission limitations. The tracking of hours of operation for these units is redundant and places an undue burden on industry.

Registration Fees

ARB staff proposes a requirement for collecting back registration and inspection fees for these Tier 1 and Tier 2 engines that do not meet the current nonroad emission standard in effect. The proposed fee schedule would favor owners and operators that act early. Fees would be collected from either the year of purchase, or model year of the engine. Fees would be higher for those owners or operators of Tier 1 engines if a Tier 2 standard was in effect at the time of purchase. The bulk of these back fees will be redirected to the districts for compliance programs. Under the proposal, in addition to having to pay back fees, the owner or operator would also have to pay current registration fees that would be due.

Tier 0 Engines

Tier 0 engines are those that are not certified to a California or Federal nonroad emission standard. The proposed amendments to the Portable Engine ATCM would allow local air districts to permit Tier 0 engines at their discretion.

Compliance Flexibility

ARB staff proposes provisions in the Portable Engine ATCM that would provide compliance flexibility during those periods where it can be verified to a local air district or ARB’s Executive Officer that compliant engines are not sufficiently available.

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Miscellaneous Amendments

ARB staff is proposing the modification, addition, and deletion of terms in the definitions section, deletion of outdated provisions, and minor clarifications where needed. These changes are considered to be non-substantive and are intended to provide additional clarity and expediency to the Statewide PERP Regulation and the Portable Engine ATCM.

At the workshop, staff will discuss the staff proposal to be presented at the March Board hearing. The staff proposal will be available on the program website at **<http://www.arb.ca.gov/portable/perp/perp.htm>**

As a result of ARB's continuing effort to increase accessibility and public participation, the public workshop will be broadcast on the internet at **http://www.arb.ca.gov/app/calendar/cal_wbcst.php**.

The workshop will also be audio teleconferenced. To participate by teleconference, please call (888) 455-3612 using the pass code 52295.

If you have a disability-related accommodation need, please go to **<http://www.arb.ca.gov/html/ada/ada.htm>** for assistance or contact the ADA coordinator at (916) 323-4916.

If you are a person who needs assistance in a language other than English, please go to **<http://www.arb.ca.gov/as/eeo/languageaccess.htm>** or contact the Bilingual Coordinator at (916) 324-5049. TTY/TDD Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

If you have questions about the public workshop or future activities related to the Statewide PERP Regulation and the Portable Engine ATCM, please contact Mr. Joseph Gormley at (916) 322-5616 or via email at jgormley@arb.ca.gov.

Sincerely,

/s/

Jorge Fernandez, Chief
Program Evaluation Branch

cc: Joseph Gormley
Air Resources Engineer
Rule Evaluation Section